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In the Supreme Court of the United States

OCTOBER TERM 1937

No. 146

THE UNITED STATES OF AMERICA, PETITIONER

v.

RALPH RAYNOR

No. 147

THE UNITED STATES OF AMERICA, PETITIONER

v.

CHETT FOWLER

PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

The Solicitor General, on behalf of the United States prays that writs of certiorari issue to review the judgments of the United States Circuit Court of Appeals for the Seventh Circuit entered in the above cases on March 23, 1937, reversing the judgment of the District Court of the United States for the Southern District of Indiana (R. 110, 122). A petition for rehearing was denied by the Circuit Court of Appeals on May 11, 1937 (R. 112, 123).

OPINION BELOW

The charge of the trial court appears at R. 72–80. The opinion of the Circuit Court of Appeals has not yet been reported (R. 105–111, 117–122).

JURISDICTION

The judgments of the Circuit Court of Appeals were entered March 23, 1937 (R. 111, 122–123). A petition for rehearing was denied May 11, 1937 (R. 112, 123). The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925, and under Rule XI of the Rules of Practice and Procedure in Criminal Cases, promulgated by this Court May 7, 1934.

QUESTION PRESENTED

Whether the provisions of Section 150 of the Criminal Code, under which the respondents were convicted, relate only to genuine Government paper or paper which the Government would use in the printing of its own obligations and securities.

STATUTE INVOLVED

Section 150 of the Criminal Code (U. S. C., Title 18, Section 264), so far as pertinent, provides:

> * * * whoever shall have or retain in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such

obligation or other security, except under the authority of the Secretary of the Treasury or some other proper officer of the United States, shall be fined not more than $5,000, or imprisoned not more than fifteen years, or both.

STATEMENT

The respondents were convicted in the District Court of the United States for the Southern District of Indiana under the second count of an indictment charging that they "on or about the 9th day of October, 1936, after a distinctive paper had been adopted by the Secretary of the Treasury of the United States for the obligations and other securities of the United States, did then and there unlawfully, wilfully, knowingly, and feloniously have in their possession * * * similar paper adapted to the making of such obligations and other securities without the authority of the Secretary of the Treasury or any other proper officer of the United States" (R. 3, 7).

A motion for new trial was denied (R. 10). Respondent Raynor received a sentence of four years imprisonment and respondent Fowler a sentence of two years imprisonment (R. 10). On March 23, 1937, the Circuit Court of Appeals for the Seventh Circuit reversed the judgment of the District Court and remanded the causes, one judge dissenting (R. 105–111, 117–123). Thereafter a petition by the Government for rehearing was denied (R. 112, 123).

The pertinent facts in the consideration of this petition involve a study and a comparison of Government Exhibit 3 and Government Exhibit 28.

Exhibit 28 is genuine Government paper which the Government itself would use in the making of its own obligations and securities (R. 53). Exhibit 3 is the paper found in the control and possession of the respondents Raynor and Fowler (R. 22, 30, 32). Both Exhibit 28 and Exhibit 3 are high grade rag bond paper (R. 53, 31, 70) of approximately the same type (R. 59) with color nearly matching (R. 69), of practically the same weight (R. 70, 49), with a similar feel and crackle (R. 31), with about the same toughness (R. 56), with about the same tearing resistance (R. 56), and with the same crinkle (R. 48).

Impregnated and distributed throughout Exhibit 28 are short fine red and blue silk fibers in the form of curls (R. 47), which are visible to the naked eye (R. 32, 53). Without careful examination, they resemble red and blue lines (R. 53). In Exhibit 3, however, the red and blue curls which resemble the impregnated short fine silk fibers of Exhibit 28 are merely surface markings (R. 51, 32, 64). But they are similar, and approximate the appearance of a fiber (R. 47, 48, 54), although apparently not as plentiful (R. 70).

Exhibit 3 was cut to the size of the genuine United States currency (R. 30, 31). One defense witness testified that Exhibit 3 is "pretty nearly like" Exhibit 28 (R. 67). Another defense wit-

ness testified that the average man would not be able to "pick" these (Exhibit 3 and Exhibit 28) apart (R. 70).

In the Circuit Court of Appeals the respondents contended, in effect, that the only paper coming within the scope of the provisions of the statute under which they were convicted was genine Government paper or paper upon which the Government would print its genuine obligations and securities. While the court below does not so state, this question was apparently raised in the trial court by exceptions to certain testimony, to the refusal of the trial judge to direct a verdict in favor of the respondents, and to certain portions of the charge to the jury. (Assignment of Errors, R. 89–92.) The position of the Government is that the paper contemplated by the statute need not be genuine Government paper but rather paper which the average individual would believe to be the distinctive genuine paper adopted by the Government.

The Circuit Court of Appeals, in upholding the contention of the respondents, said that by the statute Congress was "striking at the evil of someone unlawfully coming into possession of the genuine government paper" and that the statute did not apply to any paper not impregnated with red and blue silk fibers, however similar in appearance this paper might be to the genuine Government paper (R. 108, 120). The dissenting judge in that court was of the opinion, however, that this was a strained and over-literal construction of the statute

and did violence to the intent of Congress; that the "legislative body, manifestly, was dealing with the possession of articles capable of use in counterfeiting obligations of the United States which might deceive the ordinary citizen to whom such counterfeits might come." (R. 110, 122.)

SPECIFICATION OF ERRORS TO BE URGED

The Circuit Court of Appeals for the Seventh Circuit erred:

(1) In construing the provisions of the statute under which the respondents were convicted as relating only to genuine Government paper or paper which the Government would use in the printing of its own obligations and securities.

(2) In holding that the statute did not apply to any paper not impregnated with red and blue silk fibers, however similar in appearance this paper might be to the genuine Government paper.

(3) In reversing the judgment of the District Court of the United States for the Southern District of Indiana.

REASONS FOR GRANTING THE WRIT

1. We submit that in construing the clause "similar paper adapted to the making of any such obligation or other security", appearing in the statutory provisions in question, as meaning solely the genuine Government paper or paper which the Government would use in printing its own obligations and securities, the court below has given such a construction to this clause as deprives the word

"similar" of its ordinary significance and meaning. While the court admits that

> Webster defines the word "similar" to mean "nearly corresponding, resembling in many respects, somewhat like." Winston's simplified dictionary says, "having a more or less marked resemblance or correspondence to one another or to something else, analogous, like but not exactly the same, of the same nature." (R. 107, 119.)

and, that therefore, the word "similar" as used in the statute "does not import 'exactly alike', but is to be understood in its usual and ordinary meaning of having a 'marked resemblance' to, or of the same general nature, degree or order" (R. 107, 119), so that the jury under the facts "was justified in saying that the paper in question was similar to the genuine Government paper" (R. 107, 119), the court then proceeded to give such an interpretation to the remainder of the clause in question as to deprive the word "similar" of its acknowledged meaning and significance by holding that the paper falling within the purview of the statute is not paper with a "more or less marked resemblance" to the genuine Government paper, but must in fact be the genuine Government paper or paper which the Government would use in the printing of its own obligations and securities. The court therefore held that although the paper in question was concededly similar in appearance to the Government paper, it did not fall within the statute because it did not contain the red and

blue silk fibers impregnated in the distinctive paper adopted by the Government (R. 108, 120).

It is apparent that the court's construction of the statutory provisions in question was influenced by the reasoning employed by the Circuit Court of Appeals for the Second Circuit in its decision in *Krakowski* v. *United States,* 161 Fed. 88. That court, in holding that the statute prohibits only "the unauthorized possession of Government paper" or the unauthorized possession of "paper which could be used for printing Government securities" felt "that the primary object of the statute was to prevent persons from having in their possession, without authority, the distinctive Government paper." It, therefore, was of the view that the statute was designed to accomplish the same purpose as the English statute to which it referred, which manifestly covered only the unauthorized purchase, receipt, custody, or possession of paper utilized by the British Government in printing its own obligations. We believe that a fundamental error in that decision is in the view that the giving to the word "similar" of its acknowledged connotation of "having a more or less marked resemblance" would have excluded from the purview of the statute the possession of the distinctive Government paper. We submit that if paper which has a more or less marked resemblance to the genuine Government paper is included within the ambit of the statute, *a fortiori*

the genuine Government paper would be within its scope.

2. In any event, it must be apparent, in view of the divergence of opinion among the various judges who have been called upon in this and the *Krakowski* cases to construe the statutory provisions involved,[1] that the statute manifestly requires construction, and hence warrants resort to the legislative history thereof, including consideration of the Congressional committee reports, the evils sought to be prevented or removed, and the repeated amendments progressively embracing the earlier operations incident to counterfeiting. *Duplex Co.* v. *Deering,* 254 U. S. 443, 445; *Ozawa* v. *United States,* 260 U. S. 178, 194; cf. *Caminetti* v. *United States,* 242 U. S. 470, 490.

This legislative history, we submit, discloses that Congress sought to bring within the scope of the statute all of the operations incident to counterfeiting, whether such operations occur in the later or the earlier stages of the process. It therefore follows that the statutory provisions in question should not be limited to the mere felonious taking, receiving, or making of genuine Government paper, as the court below in effect held.

[1] In this and the *Krakowski* cases two district judges and a circuit judge decided in favor of the Government, while one district judge and four circuit judges decided against the Government.

The first Federal counterfeiting statute was the Act of June 30, 1812, c. 111, 2 Stat. 766.[2] This Act, in Section 10 (*infra,* p. 17), contained a penal provision limited solely to the final stages of the counterfeiting process, i. e., the actual counterfeiting or forging of Treasury notes. The reach of this legislation was not materially enlarged in the reenactments of February 25, 1813, March 4, 1814, December 26, 1814, and February 24, 1815 (*infra,* pp. 17–20). Starting, however, with the Act of October 12, 1837, c. 2, Section 11, 5 Stat. 201, 203, *infra,* p. 20, certain of the earlier steps of the counterfeiting process, such as the engraving and possession of plates and the possession of paper to be used in counterfeiting, were included within the scope of the legislation, and thereafter, by repeated amendments, there had resulted such a progressive inclusion of the earlier counterfeiting operations as to cause a Special Joint Congressional Committee on Revision of Laws, at the time the legislation was incorporated in the Criminal Code as Section 150, to state in its report that

> This section [Criminal Code, Sec. 150; now U. S. C. Title 18, Sec. 264] is broadened so as to embrace every method which may be employed in counterfeiting the obligations of the United States, and its provisions are extended so as to apply in any place under

[2] This and all subsequent statutes referred to in the discussion of the legislative history are set forth in the Appendix (*infra,* pp. 17–36) in chronological order.

> the jurisdiction of the United States. (Sen. Rep. No. 10, Pt. I, p. 10, 60th Cong., 1st Sess.; House Rep. No. 2, Pt. I, p. 19, 60th Cong., 1st Sess.)

In addition, the punishment provided by the statute had been so increased that the maximum term of imprisonment which might be given was raised from ten years to fifteen years. (Act of February 25, 1862, c. 33, Sec. 7, 12 Stat. 348, *infra,* pp. 25–27.)

Viewing the particular statutory provisions here involved in the light of this general background disclosing the purpose of Congress expressly to penalize all of the steps in the counterfeiting process, it may be pointed out that these provisions had their genesis in Section 11 of the Act of October 12, 1837, *supra,* which, as stated, was the first of the series of amendments by which Congress sought to broaden its prior legislation by including not only the final stages of counterfeiting, but also the earlier stages thereof. As these provisions appeared in the Act of 1837 they read:

> That if any person * * * shall have in his custody or possession any paper adapted to the making of [Treasury] notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid; every such person * * * shall be sentenced * * *.

By the Act of February 25, 1862, c. 33, Section 7, 12 Stat. 345, 348, *infra*, p. 25, "bonds, coupons, or other securities" were included within the scope of the provisions.

It will be noted that one of the elements of the offense denounced by these provisions was *mens rea*, i. e., an intent to use the paper in forging or counterfeiting notes, bonds, coupons, and other securities of the United States. However, by the Act of June 30, 1864, c. 172, Section 11, 13 Stat. 218, 221, *infra*, p. 30, the statute was amended to read in substantially the same form as it now appears. As thus amended, it provided:

> That if any person * * * shall have or retain in his custody or possession, after a distinctive paper shall have been adopted by the Secretary of the Treasury for obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under authority of the Secretary of the Treasury, or some other proper officer of the United States, every person so offending shall * * * be punished * * *.

When the statute as thus amended is considered in the light of the avowed purpose of Congress to bring within its ambit all of the stages of the counterfeiting process, we submit that both the court below and the Circuit Court of Appeals for the Second Circuit in the *Krakowski* case misapprehended the import of the legislation when they declared in effect that its only purpose was to pro-

hibit the unauthorized possession of genuine Government paper. In view of the purpose manifested by the legislative background, it is unreasonable to believe that Congress intended to relax its fight against counterfeiters, as indicated by the court below and the Circuit Court of Appeals for the Second Circuit, but rather that the primary purpose of Congress was to give the Government another weapon in its effort to eradicate counterfeiting by eliminating the provision in the prior legislation as to *mens rea*, thereby making convictions simpler and surer through the removal of the difficulties usually incident to proof of criminal intent (cf. 50 Harvard Law Review, 618).

If, as we believe, the amendment had this purpose in view, it is evident that Congress intended that there should arise from the custody and possession alone of the prohibited paper a presumption that the paper was to be used in counterfeiting, and that the only purpose of the phrase "except under the authority of the Secretary of the Treasury, or some other proper officer of the United States", relied upon by the court below and the Circuit Court of Appeals for the Second Circuit, was to indicate the sole means by which this presumption could be rebutted. Of course it is undoubtedly true, as pointed out by the court below and the Circuit Court of Appeals for the Second Circuit, that an official authorization of the possession of non-genuine Government paper suitable for counterfeiting would be unique in

character, but as we have heretofore pointed out (*supra,* pp. 8–9), the statutory provisions in question cover not only paper suitable for counterfeiting but also the genuine Government paper. It is obvious, therefore, that the statutory exception has a permissible field of operation in so far as the genuine Government paper is concerned, and that the presumption raised by the possession of paper suitable for counterfeiting is, in effect, an irrebuttable presumption. It is only by according such a meaning to this exception that the statutory provisions involved are brought in harmony with the manifest aim of the legislation to punish counterfeiting in all its phases. The use of the statutory exception by the court below and the Circuit Court of Appeals for the Second Circuit for the purpose of supporting their argument that Congress contemplated prohibiting only the unauthorized possession of genuine Government paper can be accounted for, we submit, solely by reason of the fact that these courts were apparently not aware of the legislative history of the enactment. An examination of the briefs submitted to these courts discloses that such history was not referred to, nor was there any discussion of the legislative history in the opinions.

Furthermore, attention is directed to the fact that when the statutory provisions in question were incorporated into the Criminal Code, at which time, as heretofore stated (*supra,* pp. 10–11), the Joint Congressional Committee manifested its intent to

broaden the section "so as to embrace every method which may be employed in counterfeiting obligations of the United States", the word "control" was substituted for "custody", another advance in the Congressional determination to wipe out counterfeiting by including responsible principals who theretofore could not have been reached because they did not have technical custody or possession of the prohibited paper.

3. While it is impossible to determine at this time why a writ of certiorari was not applied for by the Government to review the adverse holding of the Circuit Court of Appeals for the Second Circuit in the *Krakowski* case, the result of that decision has been to make United States Attorneys unwilling to prosecute offenders where the only proof of guilt obtainable was possession of paper suitable for counterfeiting, regardless of the degree of resemblance to genuine Government paper. It is only where the evidence has disclosed the consummation of some step in the counterfeiting process subsequent to the possession of prohibited paper, that it has been possible to procure a conviction. The situation is intensified in the present cause. Even though the court below was apparently of the opinion that a conviction would have been warranted upon the first count of the indictment charging a later step in the counterfeiting process (R. 107, 110, 118, 122), which count was, however, dismissed at the conclusion of the case

by the trial court because of insufficiency of evidence, the result of the holding of the court below with respect to the count here involved, charging control and possession of prohibited paper, is to allow the respondents to escape punishment for counterfeiting activities. Successful eradication of counterfeiting clearly requires the detection and punishment of those participating in the earliest stages thereof. Since "Counterfeit money is not ordinarily made upon genuine Government paper" (R. 53), the holdings by the court below and the Circuit Court of Appeals for the Second Circuit to the effect that the statute reaches only the unauthorized control and possession of genuine Government paper hampers the administration of Federal justice. For this reason the construction of the statutory provisions in question should be authoritatively settled by this Court.

Wherefore, it is respectfully submitted that this petition should be granted.

STANLEY REED,
Solicitor General.

JUNE 1937.

APPENDIX

LEGISLATIVE HISTORY OF STATUTORY PROVISIONS INVOLVED

Act of June 30, 1812, c. 111, Sec. 10, 2 Stat. 766, 768:

> *'And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any note in imitation of or purporting to be a treasury note aforesaid; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any treasury note issued as aforesaid; or shall pass, utter or publish, or attempt to pass, utter or publish, as true, any false, forged or counterfeited note, purporting to be a treasury note as aforesaid, knowing the same to be falsely forged or counterfeited; or shall pass, utter or publish, or attempt to pass, utter or publish, as true, any falsely altered treasury note, issued as aforesaid, knowing the same to be falsely altered; every such person shall be deemed and adjudged guilty of felony, and, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labour for a period not less than three years nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

Act of February 25, 1813, c. 27, Sec. 12, 2 Stat. 801, 803:

> *'And be it further enacted,* That if any person shall falsely make, forge, or counterfeit,

or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any note in imitation of, or purporting to be, a treasury note aforesaid; or shall falsely alter, or cause, or procure to be falsely altered, or willingly aid or assist in falsely altering any treasury note issued as aforesaid; or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any false, forged, or counterfeit note, purporting to be a treasury note as aforesaid, knowing the same to be falsely made, forged, or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered treasury note issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted, by due course of law, shall be sentenced to be imprisoned and kept to hard labour for a period not less than three years, nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

Act of March 4, 1814, c. 18, Sec. 12, 3 Stat. 100, 102:

And be it further enacted, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any note, in imitation of, or purporting to be, a treasury note as aforesaid; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any treasury note, issued as aforesaid; or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any false, forged, or counterfeited note, purporting to be a treasury note as aforesaid,

knowing the same to be falsely made, forged, or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered treasury note, issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labour for a period not less than three years, nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

Act of December 26, 1814, c. 17, Sec. 6, 3 Stat. 161, 162, 163:

And be it further enacted, That if any person shall with intent to injure or defraud the United States, or any person or corporation, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any note, in imitation of, or purporting to be, a treasury note, or shall falsely alter, or cause or procure to be falsely altered, or wilfully aid or assist in falsely altering any treasury note issued by virtue of this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited note, purporting to be a treasury note as aforesaid, knowing the same to be falsely made, forged, or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered treasury note, issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned for a period not less

than three years, nor more than ten years, or imprisoned and kept to hard labor for a period not less than three years, nor more than ten years; and in either case be fined in a sum not exceeding five thousand dollars.

Act of February 24, 1815, c. 56, Sec. 11, 3 Stat. 213, 215, 216:

> *And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any note, in imitation of, or purporting to be, a treasury note as aforesaid; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any treasury note issued as aforesaid; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited note, purporting to be a treasury note as aforesaid, knowing the same to be falsely made, forged, or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered treasury note issued as aforesaid, knowing the same to be falsely altered, or shall be, directly or indirectly, knowingly concerned in any of the offences aforesaid, every such person shall be deemed and adjudged guilty of felony; and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labour, for a period not less than three years, nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

Act of October 12, 1837, c. 2, Secs. 10, 11, 5 Stat. 201, 203:

SEC. 10. *And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note, in imitation of, or purporting to be, a treasury note aforesaid; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any treasury note issued as aforesaid; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited note, purporting to be a treasury note as aforesaid, knowing the same to be falsely forged or counterfeited, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered treasury note, issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned, and kept at hard labour, for a period not less than three years, nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

SEC. 11. *And be it further enacted,* That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any metallic plate, engraved after the similitude of any plate from which any notes issued as aforesaid shall have been printed, with intent to use such plate, or to cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid; or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such

blanks, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid; *or shall have in his custody or possession any paper adapted to the making of notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid;* every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned, and kept to hard labour, for a term not less than three nor more than ten years, and be fined in a sum not exceeding five thousand dollars. [Italics ours.]

Act of January 28, 1847, c. 5, Secs. 9, 10, 9 Stat. 118, 120:

SEC. 9. *And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be, a treasury note aforesaid, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any treasury note issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any false, forged, or counterfeited note, purporting to be a treasury note as aforesaid, knowing the same to be falsely forged or counterfeited, or shall pass, utter, or publish as true, any falsely altered treasury note issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted, by due course of law, shall be sentenced to be imprisoned and

kept to hard labor for a period not less than three years nor more than ten years, and to be fined in a sum not exceeding five thousand dollars.

SEC. 10. *And be it further enacted,* That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any metallic plate engraved after the similitude of any plate from which any notes issued as aforesaid shall have been printed, with intent to use such plate, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, *or shall have in his custody or possession any paper adapted to the making of notes and similar to the paper upon which any such notes shall have been issued, with intent to use such paper or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid,* every such person being thereof convicted by due course of law, shall be sentenced to be imprisoned, and kept to hard labor, for a term not less than three nor more than ten years, and fined in a sum not exceeding five thousand dollars. [Italics ours.]

Act of December 23, 1857, c. 1. Secs. 12, 13, 11 Stat. 257, 259:

SEC. 12. *And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or

counterfeiting, any note in imitation of or purporting to be a treasury note, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited note, purporting to be a treasury note as aforesaid, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any treasury note issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered treasury note, issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony; and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years nor more than ten years, and to be fined in a sum not exceeding five thousand dollars.

SEC. 13. *And be it further enacted,* That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody and possession any metallic plate engraved after the similitude of any plate from which any notes issued as aforesaid shall have been printed, with intent to use such plate, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, *or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon*

which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a term not less than three nor more than ten years, and fined in a sum not exceeding five thousand dollars. [Italics ours.]

Act of February 25, 1862, c. 33, Secs. 6, 7, 12 Stat. 345, 347, 348:

SEC. 6. *And be it further enacted,* That if any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall willingly aid or assist in falsely making, forging, counterfeiting, or altering, any note, bond, coupon, or other security issued under the authority of this act, or heretofore issued under acts to authorize the issue of treasury notes or bonds; or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States from any foreign place with intent to pass, utter, publish, or sell, or shall have or keep in possession or conceal, with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered note, bond, coupon, or other security, with intent to defraud any body corporate or politic, or any other person or persons whatsoever, every person so offending shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement to hard labor not exceeding fifteen years, according to the aggravation of the offense.

SEC. 7. *And be it further enacted,* That if any person, having the custody of any plate or plates from which any notes, bonds, coupons, or other securities mentioned in this act, or any part thereof, shall have been printed, or which shall have been prepared for the purpose of printing any such notes, bonds, coupons, or other securities, or any part thereof, shall use such plate or plates, or knowingly permit the same to be used for the purpose of printing any notes, bonds, coupons, or other securities, or any part thereof, except such as shall be printed for the use of the United States by order of the proper officer thereof; or if any person shall engrave, or cause or procure to be engraved, or shall aid in engraving, any plate or plates in the likeness or similitude of any plate or plates designed for the printing of any such notes, bonds, coupons, or other securities, or any part thereof, or shall vend or sell any such plate or plates, or shall bring into the United States from any foreign place any such plate or plates, with any other intent or for any purpose, in either case, than that such plate or plates shall be used for printing of such notes, bonds, coupons, or other securities, or some part or parts thereof, for the use of the United States, or shall have in his custody or possession any metallic plate engraved after the similitude of any plate from which any such notes, bonds, coupons, or other securities, or any part or parts thereof, shall have been printed, with intent to use such plate or plates, or cause or suffer the same to be used, in forging or counterfeiting any such notes, bonds, coupons, or other securities, or any part or parts thereof, issued as aforesaid, or shall have in his custody or possession any blank note or notes, bond or bonds, coupon or cou-

pons, or other security or securities, engraved and printed after the similitude of any notes, bonds, coupons, or other securities, issued as aforesaid, with intent to sell or otherwise use the same; or if any person shall print, photograph, or in any other manner execute or cause to be printed, photographed, or in any manner executed, or shall aid in printing, photographing, or executing any engraving, photograph, or other print, or impression, in the likeness or similitude of any such notes, bonds, coupons, or other securities, or any part or parts thereof, except for the use of the United States and by order of the proper officer thereof, or shall vend or sell any such engraving, photograph, print, or other impression, except to the United States, or shall bring into the United States from any foreign place any such engraving, photograph, print, or other impression for the purpose of vending or selling the same, except by the direction of some proper officer of the United States, *or shall have in his custody or possession any paper adapted to the making of such notes, bonds, coupons, or other securities, and similar to the paper upon which any such notes, bonds, coupons, or other securities shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes, bonds, coupons, or other securities, issued as aforesaid,* every such person so offending shall be deemed guilty of a felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement to hard labor not exceeding fifteen years, according to the aggregation of the offence. [Italics ours.]

Act of June 30, 1864, c. 172, Secs. 10, 11, 12, 13 Stat 218, 221, 222:

SEC. 10. *And be it further enacted,* That if any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, any obligation or security of the United States, or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or shall bring into the United States from any foreign place with intent to pass, utter, publish, or sell, or shall have or keep in possession, or conceal, with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered obligation, or other security, with intent to deceive or defraud, or shall knowingly aid or assist in any of the acts aforesaid, every person so offending shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement at hard labor not exceeding fifteen years, according to the aggravation of the offense.

SEC. 11. *And be it further enacted,* That if any person having control, custody, or possession of any plate or plates from which any obligation or other security, or any part thereof, shall have been printed, or which may have been prepared by direction from the Secretary of the Treasury, for the purpose of printing any such obligation or other security, or any part thereof, shall use such plate or plates, or knowingly suffer the same to be used for the purpose of printing any such or similar obligation, or other security, or any part thereof, except such as shall be printed for the use of the United States, by order of the proper officer thereof; or if any person shall engrave, or cause or procure to be engraved, or shall aid or assist in engrav-

ing any plate or plates in the likeness or similitude of any plate or plates designed for the printing of any such obligation or other security, or any part thereof, or shall vend or sell any such plate or plates, or shall bring into the United States from any foreign place any such plate or plates, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, or for any other purpose, in either case, than that such plate or plates shall be used for the printing of such notes, bonds, coupons, or other obligations or securities, or some part or parts thereof, for the use of the United States, or shall have in his control, custody, or possession; any metallic plate engraved after the similitude of any plate from which any such obligation or other security, or any part or parts thereof, shall have been printed, with intent to use such plate or plates, or cause or suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part or parts thereof, or shall have in his custody or possession, except under authority from the Secretary of the Treasury, or other proper officer, any obligation or other security, engraved and printed after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; or if any person shall print, photograph, or in any other manner make or execute, or cause to be printed, photographed, or in any manner made or executed, or shall aid in printing, photographing, making, or executing any engraving, photograph, or other print or impression in the likeness or similitude of any obligation or other security, or any part or parts thereof, or shall vend or sell any such engraving, photograph, print, or other impression, except to the

United States, or shall bring into the United States from any foreign place any such engraving, photograph, print, or other impression, except by the direction of some proper officer of the United States, *or shall have or retain in his custody or possession, after a distinctive paper shall have been adopted by the Secretary of the Treasury for obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under authority of the Secretary of the Treasury, or some other proper officer of the United States,* every person so offending shall be deemed guilty of a felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, or by imprisonment and confinement at hard labor, not exceeding fifteen years, or by both, in the discretion of the court. [Italics ours.]

SEC. 12. *And be it further enacted,* That if any person shall have or retain in his or her custody, possession, or control, without the written authority or warrant of the Secretary of the Treasury, or of the comptroller of the currency, approved by the Secretary of the Treasury, any engraved or transferred plate, block, or electrotype, or any die, roll, or other original work used in making or preparing any plate, block, or electrotype, or any plate, block, or electrotype prepared or made after the similitude of any plate, block, or electrotype, from which any obligation or other security authorized to be issued by any act of congress, or any part thereof, has been, or may hereafter be, printed, or shall use, or cause, or knowingly suffer, the same to be used, in forging or counterfeiting any such obligation or other security, or shall print, or cause to be printed, any bronzed or gilt letters or de-

vices, or shall print, or cause to be printed, any letters, figures, or devices with green ink, or any green color or pigment, upon any note, bond, or other representative of value, intended or adapted to be used as a currency or a circulating medium, every such person, being thereof convicted by due course of law, shall be deemed guilty of felony, and shall be imprisoned and kept at hard labor for a term not more than ten years, and fined in a sum not more than ten thousand dollars: *Provided,* That nothing in this act shall affect any prosecution pending, or any civil or criminal liabilities incurred under any former act: *Provided, further,* That the foregoing provisions of this section shall not be held or construed to deprive any person of the right to retain in his custody and possession and use for any lawful purpose, any engraved or transferred plate, block, or electrotype, or any die, roll, or other original work as aforesaid, which has been used by him in printing or engraving bank-notes or other obligations, before being used in printing any obligation or other security authorized to be issued by any act of congress; nor shall any of said foregoing provisions be held or construed to prohibit or restrain the lawful use by any person of any ink, color, or pigment, the exclusive right to which has been secured to any such person by letters-patent which are still in force.

Act of March 4, 1909 [Criminal Code], c. 321, Secs. 148, 149, 150, 151, 152, 153, 154, 155. 35 Stat. 1088, 1115–1117.

SEC. 148. Whoever, with intent to defraud, shall falsely make, forge, counterfeit, or alter any obligation or other security of the United States shall be fined not more

than five thousand dollars and imprisoned not more than fifteen years.

SEC. 149. Whoever shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or shall willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued by any banking association now or hereafter authorized and acting under the laws of the United States; or whoever shall pass, utter, or publish, or attempt to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any such association doing a banking business, knowing the same to be falsely made, forged, or counterfeited; or whoever shall falsely alter, or cause or procure to be falsely altered, or shall willingly aid or assist in falsely altering, any such circulating notes, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, by any such banking association, knowing the same to be falsely altered or spurious, shall be fined not more than one thousand dollars and imprisoned not more than fifteen years.

SEC. 150. Whoever, having control, custody, or possession of any plate, stone, or other thing, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States, shall use such plate, stone, or other thing, or any part thereof, or knowingly suffer the same to be used for the purpose of printing any such or similar obligation or other security, or any part thereof, except as may be printed

for the use of the United States by order of the proper officer thereof; or whosoever by any way, art, or means shall make or execute, or cause or procure to be made or executed, or shall assist in making or executing any plate, stone, or other thing in the likeness of any plate designated for the printing of such obligation or other security; or whoever shall sell any such plate, stone, or other thing, or bring into the United States or any place subject to the jurisdiction thereof, from any foreign place, any such plate, stone, or other thing, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in either case, then that such plate, stone, or other thing be used for the printing of the obligations or other securities of the United States; or whoever shall have in his control, custody, or possession any plate, stone, or other thing in any manner made after or in the similitude of any plate, stone, or other thing, from which any such obligation or other security has been printed, with intent to use such plate, stone, or other thing, or to suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof; or whoever shall have in his possession or custody, except under authority from the Secretary of the Treasury or other proper officer, any obligation or other security made or executed, in whole or in part, after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; or whoever shall print, photograph, or in any other manner make or execute, or cause to be printed, photographed, made, or executed, or shall aid in printing, photographing, making, or executing any

engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof, or shall sell any such engraving, photograph, print, or impression, except to the United States, or shall bring into the United States or any place subject to the jurisdiction thereof, from any foreign place any such engraving, photograph, print, or impression, except by direction of some proper officer of the United States; *or whoever shall have or retain in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury or some other proper officer of the United States,* shall be fined not more than five thousand dollars, or imprisoned not more than fifteen years, or both. (Italics ours.)

SEC. 151. Whoever, with intent to defraud, shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or shall bring into the United States or any place subject to the jurisdiction thereof, with intent to pass, publish, utter, or sell, or shall keep in possession or conceal with like intent, any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be fined not more than five thousand dollars and imprisoned not more than fifteen years.

SEC. 152. Whoever, without authority from the United States, shall take, procure, or make, upon lead, foil, wax, plaster, paper, or any other substance or material, an impression, stamp, or imprint of, from, or by the use of any bedplate, bedpiece, die, roll,

plate, seal, type, or other tool, implement, instrument, or thing used or fitted or intended to be used in printing, stamping, or impressing, or in making other tools, implements, instruments, or things to be used or fitted or intended to be used in printing, stamping, or impressing any kind or description of obligation or other security of the United States, now authorized or hereafter to be authorized by the United States, or circulating note or evidence of debt of any banking association under the laws thereof, shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both.

SEC. 153. Whoever, with intent to defraud, shall have in his possession, keeping, custody, or control, without authority from the United States, any imprint, stamp, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument, or thing, used, or fitted or intended to be used, for any of the purposes mentioned in the preceding section; or whoever, with intent to defraud, shall sell, give, or deliver any such imprint, stamp, or impression to any other person, shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both.

SEC. 154. Whoever shall buy, sell, exchange, transfer, receive, or deliver any false, forged, counterfeited, or altered obligation or other security of the United States, or circulating note of any banking association organized or acting under the laws thereof, which has been or may hereafter be issued by virtue of any Act of Congress, with the intent that the same be passed, published, or used as true and genuine, shall be fined not more than five thou-

sand dollars, or imprisoned not more than ten years, or both.

SEC. 155. Whoever, without authority from the United States, shall secrete within, embezzle, or take and carry away from any building, room, office, apartment, vault, safe, or other place where the same is kept, used, employed, placed, lodged, or deposited by authority of the United States, any bedpiece, bedplate, roll, plate, die, seal, type, or other tool, implement, or thing used or fitted to be used in stamping or printing, or in making some other tool or implement used or fitted to be used in stamping or printing, any kind or description of bond, bill, note, certificate, coupon, postage stamp, revenue stamp, fractional currency note, or other paper, instrument, obligation, device, or document, now or hereafter authorized by law to be printed, stamped, sealed, prepared, issued, uttered, or put in circulation on behalf of the United States; or whoever, without such paper, parchment, or other material prepared and intended to be used in the making of any such papers, instruments, obligations, devices, or documents; or whoever, without such authority, shall so secrete, embezzle, or take and carry away any paper, parchment, or other material printed or stamped, in whole or part, and intended to be prepared, issued, or put in circulation on behalf of the United States as one of the papers, instruments, or obligations hereinbefore named, or printed or stamped, in whole or part, in the similitude of any such paper, instrument, or obligation, whether intended to issue or put the same in circulation or not, shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both.

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